

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

REGINALD BURGESS, et al.,

CASE NO. 5:14-cv-00302 EJD

Plaintiff(s),

**ORDER RE: APPLICATION TO
PROCEED IN FORMA PAUPERIS**

v.

OTTO BOCK HEALTHCARE, US, et. al.,

[Docket Item No(s). 3]

Defendant(s).

Plaintiffs Reginald Burgess and William Everden commenced the instant action by filing a Complaint on January 21, 2014. See Docket Item No. 1. Presently before the court is Burgess' application to proceed in forma pauperis, which was filed along with the Complaint. See Docket Item No. 3.

Pursuant to 28 U.S.C. § 1915(a)(1), the court "may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such [person] prisoner possesses that the person is unable to pay such fees or give security therefor." District courts have broad discretion to grant or deny a motion to proceed in forma pauperis in a civil action. O'Loughlin v. Doe, 920 F.2d 614, 616-17 (9th Cir. 1990). Indeed, "[t]he right to proceed in forma pauperis is not an unqualified one." Jefferson v. United States, 277 F.2d 723, 725 (9th Cir. 1960). "It is a privilege, rather than a right." Id.

The court has reviewed Burgess' application for in forma pauperis status but finds it


1 incomplete because it does not disclose or describe Everden's financial circumstances, despite the
2 fact that both Burgess and Everden are referenced as plaintiffs. But in order for the court to properly
3 determine whether this case should proceed without the payment of fees, financial information for
4 both Burgess and Everden must be presented demonstrating as much. Otherwise, the filing fee must
5 be paid.

6 Accordingly, the court orders that Everden either file a complete application to proceed in
7 forma pauperis or pay the filing fee on or before **March 3, 2014**. Plaintiffs are advised that
8 Everden's failure to either submit an application to proceed in forma pauperis or failure to pay the
9 filing fee within the time provided may result in an order dismissing Everden from this action.

10 Since it is unclear whether and how this action will proceed at this time, the motion filed
11 February 17, 2014 (Docket Item No. 17), is TERMINATED.

12 **IT IS SO ORDERED.**

13
14 Dated: February 25, 2014


EDWARD J. DAVILA
United States District Judge